

MEDICAL BOARD OF CALIFORNIA

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Protection of the public shall be the highest priority for the Medical Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

—Business and Professions Code § 2000.1

The Medical Board of California (MBC) is a consumer protection agency within the state Department of Consumer Affairs (DCA). The 15-member Board consists of eight physicians and seven public members. MBC members are appointed by the Governor (who appoints all eight physicians and five public members), the Speaker of the Assembly (one public member), and the Senate Rules Committee (one public member). Members serve a four-year term and may be reappointed to a second term. The Board is assisted by several standing committees and ad hoc task forces.

The purposes of MBC are to protect consumers from incompetent, grossly negligent, unlicensed, impaired, or unethical practitioners; enforce the provisions of the Medical Practice Act, Business and Professions Code section 2000 et seq.; provide public-record information about physicians to the public via its website and individual requests; and educate healing arts licensees and the public on health quality issues. The Board's regulations are codified in Division 13, Title 16 of the California Code of Regulations (CCR).

MBC is responsible for ensuring that all physicians licensed in California have adequate medical education and training. In this regard, the Board issues regular and probationary licenses and certificates under its jurisdiction, administers a continuing medical education program, and administers physician and surgeon examinations to some license applicants. MBC also oversees the regulation of licensed midwives; polysomnographic technologists, technicians, and trainees; research psychoanalysts; and medical assistants.

In response to complaints from the public and reports from health care facilities and other mandated reporters, MBC reviews the quality of medical practice carried out by physicians and surgeons. In this regard, MBC's responsibilities include enforcement of the disciplinary, administrative, criminal, and civil provisions of the Medical Practice Act. MBC's enforcement staff receives and evaluates complaints and reports of misconduct and negligence against physicians. If there is reason to suspect a violation of the Medical Practice Act, an investigator from DCA's Health Quality Investigation Unit (HQIU), together with a deputy attorney general (DAG) from the Health Quality Enforcement Section (HQE) in the Attorney General's Office, will investigate the allegations and may file charges against alleged violators. Barring a stipulated settlement, the HQE DAG will prosecute the charges at an evidentiary hearing before an administrative law judge (ALJ) from the special Medical Quality Hearing Panel within the Office of Administrative Hearings (OAH). Following the hearing, a seven-member panel of MBC reviews the ALJ's proposed decision and takes final disciplinary action to revoke, suspend, or restrict the license, or impose other appropriate administrative action.

MBC meets approximately four times per year; its committees and task forces hold additional separate meetings as the need arises.

At this writing, the Board has three vacancies—one physician member and two public members—all of which must be filled by Governor-elect Gavin Newsom.

MAJOR PROJECTS

Legislative Oversight Hearing Regarding Patient Protection

On June 18, 2018, the Senate Committee on Business, Professions and Economic Development Committee convened an oversight [hearing](#), entitled “Sexual Misconduct Reporting in the Medical Profession: Missed Opportunities to Protect Patients,” to examine health practitioner discipline, and to provide Committee members information about current reporting requirements and potential loopholes in the law. The hearing was a response to the public outcry after news reports that hundreds of women had complained to the University of Southern California (USC) about its student health center’s gynecologist, George Tyndall, and his pattern of sexual misconduct for decades. New reports revealed that university officials did not report Dr. Tyndall to law enforcement or to MBC at the time they became aware of the misconduct. This scandal, combined with 2016 revelations of similar issues occurring at Michigan State University and USA Gymnastics with respect to sports physician, Larry Nassar, gave rise to the hearing. Attorney Lowell Brown of Arent Fox LLP (MBC expert), MBC Executive Director Kirchmeyer, MBC Staff Counsel Kerrie Webb, Supervising Deputy Attorney General Jane Zack Simon, and T. Scott Vivona from the California Department of Public Health all

testified before the oversight hearing, discussing the statutory reporting requirements and common issues or loopholes they have come across in their work.

This hearing likely prompted the legislature to pass [SB 1448 \(Hill\) \(Chapter 570, Statutes of 2018\)](#), which requires doctors on probation for specified offenses, including sexual misconduct, to affirmatively disclose their probationary status to their patients. [See LEGISLATION]

Cannabis for Medical Purposes

At its April 2018 [meeting](#), MBC discussed proposed revisions to its [Guidelines for Recommending Cannabis for Medical Purposes](#) (“Guidelines”). The *Guidelines* were developed, following California’s legalization of cannabis as a permissible treatment modality, to assure physicians who choose to recommend cannabis for medical purposes to their patients that they will not be subject to investigation or discipline provided they are recommending in accordance with accepted standards of medical responsibility. The revised *Guidelines* cover a myriad of medical cannabis-related issues, including the physician-patient relationship (as discussed in Business and Professions Code section 2525.2 and Health and Safety Code section 11362.7(a)); patient evaluation (as discussed in Business and Professions Code section 2525.3); informed and shared decision making; treatment agreements (or “treatment plans”); qualifying conditions; ongoing monitoring and adapting of the treatment plan; consultation and referral; and medical record maintenance (pursuant to Business and Professions Code section 2266); and physician conflicts of interest (as discussed in Business and Professions Code sections 2525, 650.01, and 2525.4).

MBC originally adopted the *Guidelines* at MBC's October 2017 [meeting](#) [[23:2 CRLR 58](#)]. Additionally, at its April 2018 [meeting](#), MBC member Kristina Lawson gave an overview of the proposed revisions, mostly minor and technical in nature, to the *Guidelines*. The Board voted to approve the revised *Guidelines*, and directed staff to post them on the Board's website and notify physicians about the revised *Guidelines*.

After the vote, Board President, Dr. GnanaDev announced that MBC's Marijuana Task Force would disband because MBC approved the revised *Guidelines*, so no further action was needed.

Detection of Overprescribing Physicians: CURES 2.0

On October 2, 2018, the statutory mandate became effective, requiring prescribers to consult the Controlled Substance Utilized Review and Evaluation System (CURES 2.0) before issuing a prescription for Schedule II, III, or IV controlled substances to a patient for the first time (and at least once every four months thereafter if the substance remains part of the patient's treatment plan). The Department of Justice (DOJ) certified CURES ready to use on a statewide basis in April of 2018, triggering the six month window before mandatory compliance pursuant to [SB 482 \(Lara\) \(Chapter 708, Statutes of 2016\)](#).

Pursuant to section 11165.4(d) of the Health and Safety code, MBC is authorized to impose administrative sanctions on physicians who fail to consult CURES. [[23:2 CRLR 53](#)]

MBC Releases App to Track Physician Discipline

At the Board's July 2018 [meeting](#), Executive Director Kirchmeyer gave a brief overview of MBC's newly developed, self-titled iOS application, which the Board released in the summer of 2018. The application, which is free, allows users to "follow" up to sixteen physician licenses, and receive automated license alert notifications if the physician has his or her license suspended, revoked, or placed on probation, or is subject to administrative actions. App users will also be notified when one of their selected physician's name, address, practice statute, license expiration or survey data change. The application is available to use 24/7, and MBC released a [flyer](#) introducing the application when it was released. Ms. Kirchmeyer reported that once the iOS version of the application is working well, the Board will redevelop the application to also work on Android devices.

At the meeting, several consumer advocate provided public comment noting that while the application improves consumer protection it should not be a replacement for affirmative physician disclosure of probationary status to patients. [See LEGISLATION]

Proposed Changes to Regulations Regarding Notice to Patients and Clients

At its July [meeting](#), MBC staff counsel presented [proposed amendments and additions](#) to the Board's regulations pertaining to patient notification about the Board for the Board's discussion and approval. [SB 798 \(Hill\) \(Chapter 775, Statutes of 2017\)](#) added section 2026 to the Business and Professions Code, which requires the Board to

initiate the process of adopting regulations on or before January 1, 2019, to require its licentiates and registrants to provide notice to their clients or patients that the practitioner is licensed or registered in this state by the board, that the practitioner's license can be checked, and that complaints

against the practitioner can be made through the board's Internet Web site or by contacting the board.

Specifically, staff proposed amending sections 1355.4 and 1379.58, Title 16 of the CCR to conform to the statutory language, including that the notification be made in the patient's primary language, and adding sections 1378.5 and 1379.4 to impose similar notice requirements on research psychoanalysts and licensed midwives, respectively.

Multiple MBC members and a representative from the California Medical Association voiced concerns regarding the language accessibility of the Board's materials under the proposed requirements. Ms. Webb then explained that various proposals and suggestions to make the Board's notice materials downloadable in multiple languages is within the Board's authority. After discussion, the Board unanimously voted to approve and submit the proposed regulations to DCA for review.

Mexico Pilot Program Orientation Program

At its July 2018 [meeting](#), April Alameda, Chief of Licensing for MBC, discussed the "Mexico Pilot Program" in length. Ms. Alameda explained that the program, first approved by legislation in 2003, was intended to allow up to 30 Mexico-licensed physicians specializing in a variety of practice areas to practice in medically underserved parts of California for a period of three years. Each physician selected under the program is required to complete an MBC-approved, six-month orientation program on the California health care delivery system before coming to California. However, the Board never received proper funding to support and implement the program.

The Board is required to approve of the pilot program's orientation program before selected individuals take the course. Board staff conducted an initial review of the course

curriculum before turning it over to a Board Licensing Medical Consultant, Dr. Mark Servis. Dr. Servis conducted a thorough review of the orientation program and its curriculum and had several critiques of the program which he sent back to the pilot program. The pilot program incorporated the necessary changes and Dr. Servis received back a “comprehensively modified curriculum with significant modifications.”

Dr. Maximiliano Cuevas, Chief Executive Officer of the Clinica de Salud in Salinas, discussed his support of the pilot program, its intended goals, and the potential benefits it may produce. Arnoldo Torres, a private policy consultant and author of the above-referenced legislation that greenlit the pilot program, noted the difficulties in getting the program implemented and clarified the eligibility requirements for the program. Finally, Dr. Hannah Rhee voiced her support for including diversity and language training as part of the orientation program and training process. The Board voted to approve the Mexico Pilot Program.

LEGISLATION

[SB 1448 \(Hill\)](#), as amended August 23, 2018, adds sections 2228.1 and 2228.5 to the Business and Professions Code. Section 2228.1 requires certain MBC licensees to affirmatively disclose their (1) probation status, (2) the length of the probationary period, (3) the end date of the probationary period, (4) any and all practice restrictions placed on the licensee by MBC, (5) MBC’s telephone number, and (6) an explanation of how the patient can access the licensee’s profile page on MBC’s website to get further information about the licensee’s probation. MBC licensees on probation will have to affirmatively disclose the above information to a patient (or to the patient’s guardian or health care surrogate) before the patient’s first appointment following the probationary order. The

bill's affirmative disclosure provisions are triggered when—as established by an MBC administrative hearing, admission by licensee, or prima facie showing in a settlement agreement—a licensee has: (1) committed sexual abuse or misconduct with a patient; (2) abused drugs or alcohol resulting in patient harm or impairment of the licensee's ability to safely practice medicine; (3) been criminally convicted for a crime which directly involved harm to a patient; or (4) abused medication prescribing privileges resulting in patient harm and a probationary period of at least five years. Section 2228.5 further provides that patients must sign a copy of the disclosure notice required by the section and that the patient-signed disclosure notice is inapplicable if (1) the patient (or the patient's guardian or health care surrogate) was unable to understand the disclosure notice, (2) the patient's visit is due to a time-sensitive medical emergency, (3) the licensee serving as the treating physician is not known to the patient prior to the patient's visit, or (4) the licensee is not directly treating the patient. Finally, the section requires MBC to post information related to licensee probation in plain sight on the licensee's profile page on the MBC website.

[\[23:2 CRLR 54\]](#)

Sections 2228.1 and 2228.5 become effective on July 1, 2019. Governor Jerry Brown signed SB 1448 on September 19, 2018 (Chapter 570, Statutes of 2018).

[AB 2487 \(McCarty\)](#), as amended August 8, 2018, adds section 2190.6 to the Business and Professions Code. Existing section 2190.5 requires physicians and surgeons to complete twelve credit hours of continuing medical education (CME) in the subjects of pain management and the treatment of terminally ill and dying patients. New section 2190.6 provides that as an alternative to the CME requirement in 2190.5, licensed physicians and surgeons may complete a one-time CME course of twelve credit hours in

the subjects of treatment and management of opiate-dependent patients, including eight hours of buprenorphine (or related) treatment for opioid-dependent patients. If a licensed physician or surgeon meets the requirements of a “qualifying physician” as defined by the Comprehensive Addiction Recovery Act of 2016 (CARA), the licensee is exempt from the above provision in section 2190.6. Licensed physicians and surgeons who choose to comply with section 2190.6 as an alternative to complying with section 2190.5 (as allowed by this section) are required to satisfy the provisions of the section 2190.6 by his or her next upcoming license renewal date. Finally, section 2190.6 stipulates that MBC shall determine whether a licensed physician or surgeon has met the section’s requirements.

Governor Jerry Brown signed AB 2487 on September 7, 2018 (Chapter 301, Statutes of 2018).

[SB 1109 \(Bates\)](#), as amended August 24, 2018, amends sections 2190.5, 2191, and 2196.2 of the Business and Professions Code to adjust existing mandatory CME course content, on pain management and treating terminally ill patients, for physician and surgeons licensed on or after January 1, 2019, to include materials covering the risks associated with the use of Schedule II drugs. Amended section 2191 specifically directs MBC to give “highest priority” to developing a CME course on pain management and the risk of addiction associated with the use of Schedule II drugs. Finally, amended section 2196.2 requires MBC to develop and distribute educational and informational materials regarding pain management techniques and the risk of addiction associated with the use of Schedule II drugs to all licensed physicians, surgeons, and general acute care hospitals in California.

Governor Jerry Brown signed SB 1109 on September 22, 2018 (Chapter 693, Statutes of 2018).

[AB 2760 \(Wood\)](#), as amended August 15, 2018, adds Article 10.7 (commencing with section 740) to the Business and Professions Code to require prescribers to offer prescriptions for naloxone hydrochloride or another federally-approved drug approved for the partial or complete reversal of opioid depression (a life-threatening slowing of the central nervous and respiratory systems that occurs after an opioid overdose) to a patient when certain specified conditions are present. Article 10.7 also requires prescribers to provide educational and informational materials for their patients on overdose prevention and the use of naloxone hydrochloride or other similarly-purposed and federally-approved drugs.

Governor Jerry Brown signed AB 2760 on September 10, 2018 (Chapter 324, Statutes of 2018).

[AB 2783 \(O'Donnell\)](#), as amended August 22, 2018, amends sections 11055 and 11056 of the Health and Safety Code to reclassify certain specified hydrocodone combination products as Schedule II controlled substances. Re-classifying specified hydrocodone combination products as Schedule II controlled substances imposes more stringent requirements on the prescribing of hydrocodone combination products, including a limitation on refills.

Governor Jerry Brown signed AB 2783 on September 20, 2018 (Chapter 589, Statutes of 2018).

[AB 1751 \(Low\)](#), as amended August 24, 2018, amends section 11165 of the Health and Safety Code to authorize the California Department of Justice (DOJ) to share

prescription records directly with the state's drug monitoring programs (PDMP), the Controlled Substance Utilization Review and Evaluation System (CURES), and databases across state lines without having to go through a data share hub provided California patient privacy and data security regulations and standards are met and observed. Section 11164 also requires the DOJ to, no later than July 1, 2020, adopt regulations related to accessing and using the information stored in CURES. MBC previously voted unanimously to support AB 1751 [[23:2 CRLR 57](#)] and did so again at its July 2018 [meeting](#) on the condition that the bill is amended to remove the ability of health plans and insurers to access CURES.

Governor Jerry Brown signed AB 1751 on September 18, 2018 (Chapter 478, Statutes of 2018).

[AB 1753 \(Low\)](#), as amended August 24, 2018, amends sections 11161.5, 11162.1, and 11165 of the Health and Safety Code to allow the DOJ to, by January 1, 2020, limit or reduce the number of approved security printers for controlled substance prescription pads to three. [[23:2 CRLR 58](#)] Additionally, the amended sections require controlled substance prescription forms to have individualized, unique serial numbers and require each printer to submit certain information to the DOJ for each dispensed prescription form. The purported purpose of requiring each prescription pad to be serialized and linked to CURES is to help law enforcement better identify the circulation of fake prescriptions written using lost or stolen prescription pads. [[23:2 CRLR 58](#)] Dispensing pharmacies, clinics, and other dispensers are also required to include each prescription form's serial number in applicable reports submitted to the DOJ.

Governor Jerry Brown signed AB 1753 on September 18, 2018 (Chapter 479, Statutes of 2018).

[AB 2086 \(Gallagher\)](#), as amended August 14, 2018, adds section 11165.6 to the Health and Safety Code to allow prescribers to access CURES for a list of patients for whom that prescriber is listed as a prescriber in CURES.

Governor Jerry Brown signed AB 2086 on September 6, 2018 (Chapter 274, Statutes of 2018).

[AB 1996 \(Lackey\)](#), as amended August 14, 2018, would have amended Business and Professions Code section 2525.1 to require MBC to consult with the California Cannabis Research Program regarding the development and adoption of medical guidelines for the appropriate administration and use of medicinal cannabis. AB 1996 passed floor votes in both the Assembly and the Senate but was vetoed by Governor Jerry Brown on September 20, 2018. In his [veto](#) message, Governor Brown stated that

I am returning Assembly Bill 1996 without my signature.

This bill renames the California Marijuana Research Program as the California Cannabis Research Program and expands the areas of research that can be undertaken. The bill also prohibits the money appropriated to the Cannabis Research Program from the Cannabis Tax Fund to pay for the provisions of this bill.

This bill contains provisions that directly conflict with the Control, Regulate, and Tax Adult Use of Marijuana Act, which the voters approved in November 2016. For this reason, I cannot support this measure.

[AB 710 \(Wood\)](#), as amended April 2, 2018, adds section 26002 to the Business and Professions Code and section 11150.2 to the Health and Safety Code to allow a physician, pharmacist, or other authorized healing arts licensee acting within their scope of practice to prescribe, furnish, or dispense cannabidiol (CBD) if cannabidiol is excluded from Schedule I classification under the federal Controlled Substances Act and placed on a schedule other than Schedule I or if the United States Food and Drug Administration approves a cannabidiol product. [[23:2 CRLR 59](#)]

AB 710 was an urgency statute, and as such took effect as soon as the governor signed it. Governor Jerry Brown signed AB 710 on July 9, 2018 (Chapter 62, Statutes of 2018).

[AB 1791 \(Waldron\)](#), as amended April 2, 2018, adds section 2191.4 to the Business and Professions Code to require MBC to consider including a continuing education course integrating HIV/AIDS pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) medication maintenance and counseling in primary care settings. MBC had previously been directed by its staff to take a neutral position on AB 1791; historically, MBC has opposed bills requiring physicians to take certain CME courses. [[23:2 CRLR 60](#)]

Governor Jerry Brown signed AB 1791 on July 18, 2018 (Chapter 122, Statutes of 2018).

[AB 2311 \(Arambula\)](#), as introduced February 13, 2018, amends section 2066.5 of the Business and Professions Code to permanently authorize a clinical instruction program for some certain international medical graduates (IMGs) at the University of California at Los Angeles' David Geffen School of Medicine as part of the School of Medicine's existing pre-residency training program. Each participating IMG must graduate from an MBC-recognized medical school at the time of their selection for the program. AB 2311 also eliminates a sunset provision in the Business and Professions Code that would have ended the program on January 1, 2019. As such, the operation of the provisions in section 2066.5 is set to continue indefinitely.

Governor Jerry Brown signed AB 2311 on July 20, 2018 (Chapter 144, Statutes of 2018).

[AB 505 \(Caballero\)](#), as amended June 28, 2018, amends section 2334 of the Business and Professions Code to authorize an administrative law judge to extend the time period for the exchange of information regarding the use of expert testimony in matters brought by MBC, upon a motion based on a showing of good cause, for a period not to exceed 100 calendar days.

Governor Jerry Brown signed AB 505 on September 18, 2018 (Chapter 469, Statutes of 2018).

[AB 2461 \(Flora\)](#), as amended May 25, 2018, amends section 11105.2 of the Penal Code to require the DOJ to provide notice and updates to MBC regarding arrests or dispositions involving a licensee. The amended section also requires DOJ provide notice to the State Department of Social Services and to the Osteopathic Medical Board.

Governor Jerry Brown signed AB 2461 on September 7, 2018 (Chapter 300, Statutes of 2018).

[AB 2789 \(Wood\)](#), as amended August 14, 2018, adds section 688 to the Business and Professions Code to require health care practitioners authorized to prescribe to have the capability to transmit electronic data transmission prescriptions. Section 688 requires pharmacies to have capability to receive data transmission prescriptions. Under section 688, beginning January 1, 2022, health care practitioners, currently authorized to prescribe using oral, written, or electronic transmission, are required to prescribe exclusively using electronic data transmission prescriptions unless: 1) the prescription is for a Class II controlled substance; 2) electronic data transmission is not available due to a temporary technological or electrical failure; 3) the prescriber is issuing a prescription which will be filled by a pharmacy located outside California; or 4) the prescription is issued in a hospital

emergency department and one or more of the following conditions are present: (a) patient lives outside of California, (b) patient lives outside the geographic area of the treating hospital, (c) patient is homeless or indigent and does not have a preferred pharmacy, or (d) prescription is issued at a time when the patient's regular or preferred pharmacy is likely to be closed.

A pharmacy must immediately notify the prescriber if an electronic data transmission prescription is not appropriately received or transfer or forward the prescription to another pharmacy at the request of the patient. Health care practitioners, pharmacists, or pharmacies that provide health care services to certain individuals under the jurisdiction of the California Department of Corrections and Rehabilitation are exempt from the above provisions of section 688. MBC had mixed reactions to AB 2789, with some members arguing that mandating electronic prescriptions will help eliminate prescription fraud while other members were concerned with physician access to appropriate technology. [[23:2 CRLR 64](#)]

Governor Jerry Brown signed AB 2789 on September 17, 2018 (Chapter 438, Statutes of 2018).

[AB 2968 \(Levine\)](#), as amended August 14, 2018, amends sections 337 and 728 of the Business and Professions Code to transfer the responsibility to prepare, develop, and disseminate an informational brochure for victims of psychotherapist-client sexual contact and their advocates to MBC and other related regulatory boards from DCA which is currently responsible for developing the brochure in conjunction with the office of Criminal Justice Planning and the office of the Attorney General. The brochure must be provided to each individual contacting said boards regarding psychotherapist-sexual

contact and behavior. AB 2986 also revises some of the brochure’s content by expanding the list of mental health practitioners included in the “psychotherapist” definition, and requires the brochure be made available on the website of MBC and the website of the other regulatory boards covered by the bill. [[23:2 CRLR 64-65](#)]

Governor Jerry Brown signed AB 2968 on September 26, 2018 (Chapter 778, Statutes of 2018).

[SB 1163 \(Galgiani\)](#), as amended August 24, 2018, amends section 27521 of the Government Code to require postmortem examinations and autopsies performed on unidentified human remains to be completed by a board-certified forensic pathologist, rather than a coroner. Section 27521 also requires agencies tasked with exhumations to consult with a board-certified forensic pathologist when performing exhumations.

Governor Jerry Brown signed SB 1163 on September 29, 2018 (Chapter 936, Statutes of 2018).

[SB 1495 \(Committee on Health\)](#), as amended June 14, 2018, makes noncontroversial changes to numerous sections of the Business and Professions Code, the Health and Safety Code, and the Welfare and Institutions Code. Importantly, SB 1495 clarifies language in SB 512 (Hernandez) (Chapter 428, Statutes of 2017) related to patient notification requirements during the course of non-FDA approved stem cell therapy. [[23:2 CRLR 66-67](#)] The bill specifies that stem cell therapies meeting the criteria of sections 1271.10 and 1271.15, Title 21 of the Code of Federal Regulations (i.e., FDA-regulated stem cell therapies that do not require FDA premarket review or clearance or stem cell therapies that qualify for an exception) do not fall under the purview of the bill’s notice

requirements. [[23:2 CRLR 66-67](#)] SB 1495 also adds section 1751.5 to the Health and Safety Code to prescribe the procedures for hospice licensure.

Governor Jerry Brown signed SB 1495 on September 14, 2018 (Chapter 424, Statutes of 2018).

[AB 2138 \(Chiu and Low\)](#), as amended August 24, 2018, amends sections 7.5, 480, 481, 482, 488, 493 and 11345.2 and adds section 480.2 to the Business and Professions Code. AB 2138 limits the circumstances under which state regulatory boards under the DCA may deny professional licensure to individuals who have previously been convicted of certain specified crimes in the 7 years preceding the date of application and requires DCA boards to develop criteria for determining whether a crime is directly and adversely related to the qualifications, functions, or duties of the business or profession a board regulates; develop procedures when requesting or taking disciplinary action based on an applicant's criminal history; and requires boards to annually report specified de-identified information relating to Board action pertaining to applicants with criminal convictions, including the number of licensees who were affected, whether they provided evidence of rehabilitation or mitigation; whether they appealed; the final disposition; and the voluntarily provided information on the race or gender of any applicant. [[23:2 CRLR 67](#)]

AB 2138's provisions become operative on July 1, 2020. Governor Jerry Brown signed AB 2138 on September 30, 2018 (Chapter 995, Statutes of 2018).

[AB 2193 \(Maienschein\)](#), as amended August 17, 2018, adds section 1367.625 and Article 6 (commencing with section 123640) to the Health and Safety Code and adds section 10123.867 to the Insurance Code to require, by July 1, 2019, licensed health care practitioners who provide prenatal or postpartum care for mothers to offer screens for

maternal mental health conditions. Health care service plans and health insurers must develop maternal mental health programs consistent with sound and accepted clinical principles and processes by July 1, 2019. Neither section 1367.625 nor section 10123.867 apply to certain specialized health insurers.

Governor Jerry Brown signed AB 2193 on September 26, 2018 (Chapter 755, Statutes of 2018).

[AB 1790 \(Salas and Fong\)](#), as amended August 23, 2018, adds Part 7.7 (commencing with section 122475) to and repeals section 122477 from the Health and Safety Code. AB 1790 establishes the Valley Fever Education, Early Diagnosis, and Treatment Act to require the California Department of Public Health to conduct a valley fever awareness campaign to communicate the dangers of valley fever to local health jurisdictions, providers, and the public. AB 1790 also allows the Department of Public Health to award grants or enter into contracts to perform activities related to the awareness campaign. AB 1790 contains a sunset provision that makes the above provisions inoperative on January 1, 2021.

Governor Jerry Brown signed AB 1790 on September 11, 2018 (Chapter 338, Statutes of 2018).

[AB 1659 \(Low\)](#), as amended January 3, 2018, amends sections 701, 702, and 703 of the Business and Professions Code to prohibit holders of inactive licenses from representing that they have active licenses. Section 703 also authorizes MBC and other applicable DCA boards to charge lower inactive license renewal fees.

Governor Jerry Brown signed AB 1659 on September 5, 2018 (Chapter 249, Statutes of 2018).

[SB 1480 \(Hill\)](#), as amended August 24, 2018, amends over a dozen sections, and adds numerous sections to the Business and Professions Code; and amends numerous sections of the Health and Safety Code. SB 1480 requires all DCA boards to meet at least two times a year and requires the Director of DCA to amend existing complaint prioritization guidelines to include the category of “allegations of serious harm to a minor.”

SB 1480 also makes changes to postgraduate license exemptions and to postgraduate training programs, all of which become operative on January 1, 2020. At the July 2018 meeting, the Licensing Committee presented an [update](#) on the changes to postgraduate training. The 12-month and 27-month limitations on license exemptions for medical school graduates enrolled in first-year postgraduate training programs and residencies and fellowships are deleted. There are changes to the duration of some postgraduate training programs and licensure procedures upon completion of those programs. Directors of California-based postgraduate training programs must report to MBC and provide documents regarding a postgraduate trainee’s status in the program within 30 days of certain events such as resignation or termination or in the event the program is extended.

Section 2428 is amended to increase the length (from two years to three years) of approved postgraduate training an applicant must complete if they are applying for a new license after a period of five years of non-renewal after they voluntarily cancelled or failed to renew their license. The bill further makes adjustments to the exam and application fee structure, including requiring applicants to pay nonrefundable application and processing fees. The remainder of the bill does not affect MBC.

Governor Jerry Brown signed SB 1480 on September 19, 2018 (Chapter 571, Statutes of 2018).

Legislative Bills that Died

The following bills reported in Volume 23, No. 2 (Spring 2018) died in committee or otherwise failed to be enacted during 2018: [AB 2741 \(Burke\)](#), which would have prohibited prescribers from prescribing more than a five-day supply of opioid medication to a minor except for specified medical uses; [AB 1998 \(Rodriguez\)](#), which would have required prescribers of Schedule II and Schedule III opioids to adopt and regularly update a safe opioid prescribing policy; [AB 182 \(Waldron\)](#), relating to the Heroin Opioid Education Program; [AB 1752 \(Low\)](#), which would have reduced the timeframe in which dispensers must report certain information to CURES from seven days to one day; [AB 1002 \(Cooley\)](#), which would have required MBC to consult with the California Cannabis Research Program to promulgate guidelines regarding medical cannabis; [AB 1795 \(Gipson\)](#), relating to emergency medical services agencies creating transport plans for certain triaged patients directly to a behavioral health facility or sobering center rather than an acute care facility; [AB 2539 \(Mathis\)](#), relating to definitional changes and the requirements of the Steven M. Thompson Physician Corps Loan Repayment Program; [AB 2904 \(Carrillo\)](#), which would have required health care providers to document patient consent to the use of telehealth; [AB 2483 \(Voepel\)](#), which would have required public entities, including MBC, to pay trebled antitrust awards against regulatory board members for acts or omissions within the scope of a member's official capacity as a member of the regulatory board; [AB 2682 \(Burke\)](#), which would have expanded the authority of certified nurse-midwives to allow them to practice and prescribe in a variety of settings without

physician supervision; [AB 2943 \(Low\)](#), which would have reclassified the selling of services related to changing the sexual orientation of individuals as an unlawful practice under the Consumer Legal Remedies Act; [AB 1368 \(Calderon\)](#), relating to provider authority to sign patient forms relating to Medi-Cal benefits and services; [AB 18 \(Garcia\)](#), which would have removed a requirement that physician orientation for the Mexico Pilot Program be six months in length; [SB 944 \(Hertzberg\)](#), relating to the development of community paramedicine programs under the California Emergency Medical Services Authority; [SB 1238 \(Roth\)](#), relating to patient rights to access medical records; and [SB 1336 \(Morrell\)](#), relating to the scope of information included on the annual End of Life Option Act Report.

LITIGATION

♦ *Selvidge v. Tang*. On May 16, 2018, the Supreme Court of California denied the defendant's petition for review and request for depublication in *Selvidge v. Tang*, Case No. S248211, 2018 Cal. LEXIS 3548 (May 18, 2018). Defendant petitioned the Supreme Court of California for review and requested depublication after the decision in *Selvidge v. Tang*, 20 Cal. App. 5th 1279 (2018). [[23:2 CRLR 70-72](#)]

RECENT MEETINGS

At its April 2018 [meeting](#), MBC voted to appoint Dr. Hawkins to serve as the Board's representative on the Health Professions Education Foundation (HPEF). The Board also unanimously voted to change the term limits for HPEF appointees to four years, or until the MBC member's term on the Board expires, whichever comes first.

At its July 2018 [meeting](#), the Board elected public member Denise Pines to serve as MBC president, and licensee member, Dr. Lewis, to serve as Vice President, and licensee member Dr. Bholat as Secretary.